THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.530 OF 1999

DATED: 24.10.2007

Between:

M. Satyanarayana

.. Petitioner

And

The Ministry of Labour, Govt. of India, New Delhi, rep. by its Secretary and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.530 OF 1999

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings No.L-12012/241/96/IR (B-II), dated 28.7.1997, of the 1st respondent as illegal and without jurisdiction; and consequently to direct the 1st respondent to refer the dispute for adjudication.

Under the impugned proceedings, the 1st respondent- Ministry of Labour, Government of India, refused to refer the dispute raised by the petitioner to the Industrial Tribunal on the ground that the petitioner-workman had not completed 240 days of service in any completed 12 calendar months preceding the date of his termination and, hence, the provisions of Section 25 of the Industrial Disputes Act, 1947, are not attracted and no industrial dispute subsists.

I am of the view that the 1st respondent, by furnishing the reason such as the workman had not put in 240 days of service, went into the merits of the case. Such exercise ought not have been taken up by the 1st respondent. It is for the Labour Court/Industrial Tribunal to go into such facts, if necessary, and to come to a proper conclusion, but the Ministry was not supposed to give such finding and reject the case on merits, except in delayed cases or where the dispute cannot be said to

be an industrial dispute at all. The case on hand is not one such case.

Under those circumstances, the impugned order is set aside and the 1st respondent – Ministry of Labour, Government of India, is directed to refer the dispute raised by the petitioner to the appropriate Industrial Tribunal, within a period of two months from the date of receipt of a copy of this order, for its adjudication.

The writ petition is, accordingly, allowed. No order as to costs.

C.V. RAMULU, J

24th October, 2007.
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